

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

-vs-

DECISION and ORDER

11-CR-6181

RAUL ABIDEL MARTINEZ,

Defendant.

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**Siragusa, J.** This case was referred by order to the undersigned, docketed on October 28, 2011, ECF No. 8, by Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On June 12, 2012, June 14, 2012, August 7, 2012, Magistrate Judge Payson conducted a hearing to determine whether Defendant was competent to stand trial. On September 28, 2012, Magistrate Judge Payson filed a Report and Recommendation (“R&R”) ECF No. 37, recommending that the Court determine that the Defendant is not competent to stand trial. The time has passed to file any objections to the R&R, and none have been filed.

Accordingly, for the reasons set forth in the Magistrate Judge Payson’s R&R, the Court finds that the Defendant is not competent to stand trial and orders that the Defendant be committed to the custody of the Attorney General for a reasonable period, not to exceed four months, to determine “whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward.” 18 U.S.C. § 4241(d)(1).

IT IS SO ORDERED.

Dated: Rochester, New York  
October 18, 2012

ENTER:

/s/ Charles J. Siragusa  
CHARLES J. SIRAGUSA  
United States District Judge